

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

RONALD SCHWENSOW
Petitioner

v.

Case No. 16-C-124
(Criminal Case No. 95-CR-224)

UNITED STATES OF AMERICA
Respondent.

ORDER

On January 8, 1997, the court sentenced petitioner Ronald Schwensow to 262 months in prison, concurrent, on two counts of possessing a firearm as a felon, 18 U.S.C. § 922(g)(1), after concluding that he qualified for an enhanced sentence under the Armed Career Criminal Act ("ACCA"), 18 U.S.C. § 924(e), based on prior convictions for burglary, robbery, and reckless injury. In Johnson v. United States, 135 S. Ct. 2251 (2015), the Supreme Court declared the ACCA's residual clause unconstitutional. The parties agree that, pursuant to Johnson, petitioner's prior reckless injury conviction no longer qualifies as a violent felony under the ACCA. Johnson applies retroactively, Price v. United States, 795 F.3d 731 (7th Cir. 2015), and petitioner has received permission to file a successive motion to vacate his sentence pursuant to 28 U.S.C. § 2255. The government does not oppose the motion.

The parties agree that the court should forego a re-sentencing hearing and simply impose the maximum sentence of 120 months, concurrent, on each count. Petitioner further asks the court to revise his conditions of supervised release to add a 60 day halfway house condition to ease his adjustment into the community.

The court having reviewed the matter, and concluding that petitioner no longer qualifies for an enhanced sentence under the ACCA,

IT IS ORDERED that petitioner's § 2255 motion (R. 1) is **GRANTED**, and his sentence in Case No. 95-CR-224 is **VACATED**. The Clerk is directed to enter judgment in this case. The court will enter an amended judgment in the criminal case modifying the sentence.

Dated at Milwaukee, Wisconsin this 5th day of February, 2016.

/s Lynn Adelman
LYNN ADELMAN
District Judge